UNITED
NATIONS

CERD

International Convention on
the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/60/CO/3
24 May 2002

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Sixtieth session
4-22 March 2002

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Concluding observations of the Committee on the Elimination of Racial Discrimination*

COSTA RICA

1. The Committee considered the sixteenth periodic report of Costa Rica (CERD/C/384/Add.5), which was due on 4 January 2000, at its 1513th and 1514th meetings, held on 15 and 18 March 2002 (CERD/C/SR.1513 and 1514). At its 1521st meeting (CERD/C/SR.1521), held on 21 March 2002, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the detailed report submitted by the State party, the contents of which correspond to the Committee's revised reporting guidelines (CERD/C/70/Rev.5), and the fact that the report was prepared in consultation with non-governmental organizations.

---

* Please note that the symbol CERD/C/Session No./CO/... will from now on replace the previous symbol CERD/C/304/Add...

3. The Committee commends the State party for the regularity of its submission of its periodic reports under the Convention. The Committee expresses its appreciation for the self-critical tone of the report and for the frank and constructive dialogue held with the representatives of the State party. The Committee appreciates the substantial additional oral information provided by the delegation in response to the questions asked.

B. Positive aspects

4. The Committee notes that according to article 7 of the Constitution of Costa Rica, international human rights treaties take precedence over domestic legislation. It also welcomes the fact that such treaties, insofar as they recognize a broader range of rights or guarantees than in the Constitution, take precedence over constitutional provisions. It further welcomes the fact that international human rights treaties can be invoked directly before the courts.

5. The Committee notes the adoption in May 1999 of article 76 of the Constitution, according to which the State shall ensure that the national indigenous languages are safeguarded.

6. The Committee notes with satisfaction that during the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, the President of Costa Rica publicly apologized for past errors committed against Afro-Costa Ricans. It further welcomes the commemoration of the International Day for the Elimination of Racial Discrimination in schools, in accordance with paragraph 131 of the Durban Programme of Action.

7. The Committee welcomes the recent (January 2002) adoption of a resolution by the Office of the National Control of Propaganda prohibiting any radio broadcast or transmission, or any commercial product depicting bias against women, particularly black women.

8. The Committee welcomes the State party's ratification of the amendments to article 8, paragraph 6, of the Convention.

9. The Committee welcomes the recently issued standing invitation to visit the country transmitted by the Government of Costa Rica to all mechanisms of the Commission on Human Rights, including the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

C. Concerns and recommendations

10. The Committee is concerned that under Costa Rican legislation racial discrimination is considered merely a misdemeanour subject to a financial penalty. The State party is invited to consider whether such penalties are commensurate with the gravity of the acts committed.

11. The Committee is concerned at the situation of indigenous people, in particularly:

(a) Information according to which indigenous people living in remote regions suffer, inter alia, from lack of health care, education, drinking water and electricity;

(b) Problems of ownership of land; that land has reportedly been appropriated by migrants and transnational enterprises;

(c) Difficulties faced by indigenous people in obtaining public funds for the improvement of their living standards;

(d) The fact that infant mortality among indigenous communities is reportedly three times higher than the national average.

The Committee invites the State party to continue to pay due attention to the specific needs of this population. It recommends that the State party undertake the necessary measures to protect indigenous lands from being invaded and to enable the restitution of those lands that have been occupied by non-indigenous persons.

12. The Committee takes note of the fact that the draft Act for the Autonomous Development of the Indigenous Peoples, aimed at granting full autonomy to indigenous peoples and recognizing their right to enjoy their own cultures, as well as the right to administer their territories, was withdrawn in the Legislative Assembly. The Committee notes that in June 2001, a draft act, similar in content to the draft Act for the Autonomous Development of the Indigenous Peoples, was presented in the Legislative Assembly. The Committee requests the State party to provide information about developments in this regard.

13. The Committee notes with concern the shortcomings of the State party in its activities on behalf of indigenous peoples, as reported by the Office of the Ombudsman, in particular the failure on the part of the authorities to maintain communication with the indigenous population and the absence of specific government plans for them. In this context, the Committee wishes to refer to its general recommendation XXIII, in which it calls upon States parties to ensure that members of indigenous peoples have equal rights in respect of effective participation in public life and that no decisions directly relating to their rights and interests are taken without their informed consent.

14. The Committee expresses concern at alleged manifestations in the media of racism, xenophobia and intolerance against minority groups. The State party should support the adoption of a code of ethics for the media.

15. The Committee is also concerned at the living and working conditions of immigrants, most of them from Nicaragua, who may become victims of discrimination in terms of article 5 of the Convention. The Committee recommends that the State party continue its efforts to ensure the rights of the immigrant population as regards discrimination on the grounds of race or ethnic or national origin. In this context, the Committee notes that a new immigration law is currently being considered by the Legislative Assembly. The Committee requests the State party to provide further information on developments in this regard in its next periodic report.

16. The Committee expresses concern at the alleged discriminatory application of legislation in force on refugee status determination procedure. According to information received, the

requirements set by that legislation to determine refugee status are applied differently to different nationalities. The Committee recommends that the State party ensure equal treatment for all asylum-seekers in refugee status determination proceedings, and in particular Colombians.

17. While commending the efficiency and credibility of the Costa Rican judicial system, the Committee expresses concern at information concerning the lack of equal access to the courts, particularly by minority and ethnic groups. The Committee encourages the State party to continue to make efforts to ensure de facto equal access to the courts to all persons, including members of minority and ethnic groups.

18. The Committee is also concerned about the lack of representation of minorities at the judicial and governmental levels. The Committee recommends that the State party undertake affirmative action to ensure such minority representation.

19. While noting that there is no regulation of the Internet in national legislation, the Committee encourages the State party to adopt legislation in conformity with the Convention and to disseminate and promote the Convention by every means possible, including the Internet.

20. The Committee recommends that the State party continue to undertake educational campaigns to raise awareness of human rights, and in particular of issues concerning racism, xenophobia and intolerance, in order to prevent and combat all forms of discrimination.

21. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's concluding observations on them be similarly publicized. It encourages the State party to continue inserting the Committee's concluding observations on the appropriate web site.

22. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at national level.

23. The Committee recommends that the State party submit its seventeenth periodic report jointly with its eighteenth periodic report, due on 4 January 2004, as an updating report, and that it address the points raised in the present observations.